

From: (b) (6) [CIV ASN \(M&RA\), MMP](#)
To: (b) (6) [CDR ASN \(M&RA\), SAML](#)
Subject: FW: Stewart ACIP Waiver
Date: Tuesday, February 27, 2018 11:26:27

Email 1 of 2

-----Original Message-----

From: (b) (6) CAPT ASN (M&RA), MMP
Sent: Friday, December 08, 2017 3:44 PM
To: (b) (6) CIV ASN (M&RA), MMP
Subject: RE: Stewart ACIP Waiver

Thanks, you too.

-----Original Message-----

From: (b) (6) CIV ASN (M&RA), MMP
Sent: Friday, December 08, 2017 3:38 PM
To: (b) (6) CAPT ASN (M&RA), MMP
Subject: RE: Stewart ACIP Waiver

Have a nice weekend.

-----Original Message-----

From: (b) (6) CAPT ASN (M&RA), MMP
Sent: Friday, December 08, 2017 3:36 PM
To: (b) (6) CIV ASN (M&RA), MMP
Subject: RE: Stewart ACIP Waiver

Got it, thanks. I'm heading out at 1600 today.

-----Original Message-----

From: (b) (6) CIV ASN (M&RA), MMP
Sent: Friday, December 08, 2017 3:33 PM
To: (b) (6) CAPT ASN (M&RA), MMP
Subject: FW: Stewart ACIP Waiver

Update -- You will see Stewart on Monday morning. I have reviewed it, and (b) (6) has changes to make.

He has set it aside for now as he is in the "AIP zone."

-----Original Message-----

From: (b) (6) CDR ASN (M&RA), SAML
Sent: Thursday, December 07, 2017 4:05 PM
To: (b) (6) CIV ASN (M&RA), MMP
Cc: (b) (6) CAPT ASN (M&RA), MMP; (b) (6) CDR ASN (M&RA), MPP
Subject: RE: Stewart ACIP Waiver

Hah! Sounds great!

V/r,

(b) (6)

From: (b) (6) CIV ASN (M&RA), MMP
Sent: Thursday, December 07, 2017 3:59:30 PM
To: (b) (6) CDR ASN (M&RA), SAML
Cc: (b) (6) CAPT ASN (M&RA), MMP; (b) (6) CDR ASN (M&RA), MMP
Subject: RE: Stewart ACIP Waiver

(b) (6)

Understand you and (b) (6) talked, and you know best we can do is Ms. Beyler will review package at the end of the day on Monday. I know we don't want the court directing us what to do.

(b) (5)

v/r

(b) (6)

-----Original Message-----

From: (b) (6) CDR ASN (M&RA), SAML
Sent: Thursday, December 07, 2017 11:24 AM
To: (b) (6) CDR ASN (M&RA), MMP
Cc: (b) (6) CIV ASN (M&RA), MMP; (b) (6) CAPT ASN (M&RA), MMP
Subject: RE: Stewart ACIP Waiver

Can we get this signed by Ms. Beyler on Mon? If so, the SALs can get it before SECNAV on Tues for signature, and the court will be off our back.

V/r,

(b) (6)

-----Original Message-----

From: (b) (6) CDR ASN (M&RA), MMP
Sent: Wednesday, December 06, 2017 3:24 PM
To: (b) (6) CDR ASN (M&RA), SAML
Cc: (b) (6) CIV ASN (M&RA), MMP; (b) (6) CAPT ASN (M&RA), MMP
Subject: RE: Stewart ACIP Waiver

(b) (6)

Copy all. Thanks. Will get it pushed asap.

R/

(b) (6)

CDR (b) (6)
Assistant Secretary of the Navy (M&RA)
Manpower & Analysis
1000 Navy Pentagon
Washington, DC 20350-1000

(b) (6)

-----Original Message-----

From: (b) (6) CDR ASN (M&RA), SAML

Sent: Wednesday, December 06, 2017 3:19 PM

To: (b) (6) CDR ASN (M&RA), MPP

Cc: (b) (6) CIV ASN (M&RA), MMP; (b) (6) CAPT ASN (M&RA), MMP

Subject: Stewart ACIP Waiver

Afternoon (b) (6)

(b) (5)

V/r,

(b) (6)

CDR (b) (6) JAGC, USN

Special Assistant for Military Law

Office of the Assistant Secretary of the Navy (M&RA)

COM: (b) (6)

FAX: (b) (6)

BB: (b) (6)

NIPR: (b) (6)

From: (b) (6) [CIV ASN \(M&RA\), MMP](#)
To: (b) (6) [CDR ASN \(M&RA\), SAML](#)
Subject: FW: Stewart ACIP Waiver
Date: Tuesday, February 27, 2018 11:26:43

Email 2 of 2

-----Original Message-----

From: (b) (6) CDR ASN (M&RA), MPP
Sent: Thursday, December 07, 2017 3:54 PM
To: (b) (6) CIV ASN (M&RA), MMP
Subject: RE: Stewart ACIP Waiver

(b) (5)

Concur with your action plan. I'll be ready with it so Ms. B can have it Monday.

CDR (b) (6)
Assistant Secretary of the Navy (M&RA)
Manpower & Analysis
1000 Navy Pentagon
Washington, DC 20350-1000

(b) (6)

-----Original Message-----

From: (b) (6) CIV ASN (M&RA), MMP
Sent: Thursday, December 07, 2017 3:51 PM
To: (b) (6) CDR ASN (M&RA), MPP
Subject: FW: Stewart ACIP Waiver

Did you talk to (b) (6) ?

(b) (6) and I talked. It will be tough to get a Ms. Beyler signature until the end of the day of Monday, but we can certainly plan for that.

(b) (6)

-----Original Message-----

From: (b) (6) CDR ASN (M&RA), SAML
Sent: Thursday, December 07, 2017 11:24 AM
To: (b) (6) CDR ASN (M&RA), MPP
Cc: (b) (6) CIV ASN (M&RA), MMP; (b) (6) CAPT ASN (M&RA), MMP
Subject: RE: Stewart ACIP Waiver

Can we get this signed by Ms. Beyler on Mon? If so, the SALs can get it before SECNAV on Tues for signature, and the court will be off our back.

V/r,

(b) (6)

-----Original Message-----

From: (b) (6) CDR ASN (M&RA), MPP
Sent: Wednesday, December 06, 2017 3:24 PM
To: (b) (6) CDR ASN (M&RA), SAML
Cc: (b) (6) CIV ASN (M&RA), MMP; (b) (6) CAPT ASN (M&RA), MMP
Subject: RE: Stewart ACIP Waiver

(b) (6)

Copy all. Thanks. Will get it pushed asap.

R/

(b) (6)

CDR (b) (6)
Assistant Secretary of the Navy (M&RA)
Manpower & Analysis
1000 Navy Pentagon
Washington, DC 20350-1000
RM: (b) (6)
(b) (6)

-----Original Message-----

From: (b) (6) CDR ASN (M&RA), SAML
Sent: Wednesday, December 06, 2017 3:19 PM
To: (b) (6) CDR ASN (M&RA), MPP
Cc: (b) (6) CIV ASN (M&RA), MMP; Ingram, Elena P CAPT ASN (M&RA), MMP
Subject: Stewart ACIP Waiver

Afternoon (b) (6)

(b) (5)

V/r,

(b) (6)

CDR (b) (6) JAGC, USN
Special Assistant for Military Law
Office of the Assistant Secretary of the Navy (M&RA)
COM: (b) (6)
FAX: (b) (6)
BB: (b) (6)
NIPR: (b) (6)

From: (b) (6) Maj (b) (6)
To: (b) (6) CDR ASN (M&RA), MPP
Cc: (b) (6) Enlisted MRA, MM/MRA; (b) (6) LtCol MRA, MMOA/M&RA; (b) (6) Capt MRA, MM/M&RA; (b) (6) Capt MRA, MPP-30; (b) (6) SJA to CMC, JPL
Subject: RE: Flight Gate Waiver ICO Capt Nicolas Stewart
Date: Tuesday, November 07, 2017 12:06:13

Sir,

Answers to your questions below:

1. Yes the Marine Corps follows OPNAVINST 7220.18.
 - a. We fall under the Department of the Navy, from what I understand the aviation pay system are department level programs. I have cc'd MPP (Maj (b) (6)), he should be able to provide the specific policy reason why we utilize the program.
 - b. The Marine Corps does not have their own based upon the above.
2. Capt Stewart is filling a 7506 (any pilot/naval flight officer) Major billet for Marine Corps Training and Education Command and it is considered a DIFDEN tour.
 - a. The fact that it is a 7506 billet makes it aviation specific.
 - b. OPNAVINST 7220.18 paragraph 6.a.4 lists waiverable tours, this is a "Washington, DC area" tour so this assignment would be considered waiverable.
3. Capt Stewart was on legal hold, then he was twice passed for promotion to Major and not continued. MMOA was unable to return him to the cockpit because he could not have fulfilled the required obligated service for PCS moves. Now that he is continued and his military legal issues have been resolved, we have the ability to move him and return him to the cockpit. We are awaiting clarification from the legal folks to see if in fact we can send him back to a flying squadron.

Let me know if you have any additional questions.

V/R,
Maj (b) (6)

Major (b) (6)
MMOA-2, HQMC Manpower Management
(b) (6)

-----Original Message-----

From: (b) (6) GySgt (b) (6)
Sent: Tuesday, November 07, 2017 11:34 AM
To: (b) (6) Maj (b) (6) (b) (6) @usmc.mil>
Subject: FW: Flight Gate Waiver ICO Capt Nicolas Stewart
Importance: High

-----Original Message-----

From: (b) (6) CDR ASN (M&RA), MPP [mailto:]
Sent: Monday, November 06, 2017 1:25 PM
To: (b) (6) GySgt (b) (6) <(b) (6)@usmc.mil>
Cc: (b) (6) Maj (b) (6) <(b) (6)@usmc.mil>
Subject: RE: Flight Gate Waiver ICO Capt Nicolas Stewart
Importance: High

Gunny,

Good afternoon. Need some more assistance ICO Capt Stewart.

We are working his ACIP Waiver package for SECNAV and I am need the following info:

1. Does the USMC follow OPNAVINST 7220.18 ?
 - 1.a. Why?
 - 1.b. Is there a MC Order for the same thing?
2. What billets has Capt Stewart been assigned to at MCBQ?
 - 2.a. Are they aviation specific?
 - 2.b. Are they on the approved list of approved billets to support waivers?
3. What has Capt Stewart done to prove that he wants to get back in the cockpit?

Anything else you can provide that may be helpful.

Thanks!

R/

CDR (b) (6)
Assistant Secretary of the Navy (M&RA)
Manpower & Analysis
1000 Navy Pentagon
Washington, DC 20350-1000
(b) (6)
(b) (6)

-----Original Message-----

From: (b) (6) GySgt (b) (6) [mailto:(b) (6)@usmc.mil]
Sent: Wednesday, October 18, 2017 12:43 PM
To: (b) (6) CDR ASN (M&RA), MPP
Cc: (b) (6) SJA to CMC, JPL; (b) (6) Capt MRA, MM/M&RA;
(b) (6) Maj ASN (M&RA), MMP; (b) (6) Maj MRA, MM/MRA
Subject: RE: Flight Gate Waiver ICO Capt Nicolas Stewart

Sir,

The package will be sent tomorrow sir because is too large to be sent via email sir.

GySgt (b) (6)

-----Original Message-----

From: (b) (6) CDR ASN (M&RA), MPP [mailto:(b) (6)@navy.mil]
Sent: Wednesday, October 18, 2017 10:40 AM
To: (b) (6) Maj (b) (6) <(b) (6)@usmc.mil>

Cc: (b) (6) GySgt (b) (6) <(b) (6)@usmc.mil>; (b) (6) Maj
(b) (6) (b) (6)@usmc.mil>; (b) (6) Maj (b) (6)
<(b) (6)@usmc.mil>
Subject: RE: Flight Gate Waiver ICO Capt Nicolas Stewart

Maj (b) (6)

Please feel free to send my way. As you alluded to, we are not permitted to take action on any flight gate waiver requests until our new Instruction is signed. In the interim, I can become familiar with the case.

R/

CDR (b) (6)
Assistant Secretary of the Navy (M&RA)
Manpower & Analysis
1000 Navy Pentagon
Washington, DC 20350-1000
(b) (6)
(b) (6)

-----Original Message-----

From: (b) (6) Maj (b) (6) [mailto:(b) (6)@usmc.mil]
Sent: Wednesday, October 18, 2017 10:37 AM
To: (b) (6) CDR ASN (M&RA), MPP
Cc: (b) (6) Enlisted MRA, MM/MRA; (b) (6)
SJA to CMC, JPL; (b) (6) Capt MRA, MM/M&RA
Subject: Flight Gate Waiver ICO Capt Nicolas Stewart

Sir,

I am reaching out regarding the flight gate waiver for Capt Nicolas Stewart. His case has been rather contentious and was returned to us via the D.C. Circuit Courts for reconsideration. I have cc'd Maj (b) (6) (M&RA Legal Counsel), he can provide any background information you may need.

I believe his requests needs to be routed to you for consideration even with the lapse in authority given the high visibility of this officers request.

Let me know and we will send it your way.

V/R,
Maj (b) (6)

Major (b) (6)
MMOA-2, HQMC Manpower Management
(b) (6)



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
(MANPOWER AND RESERVE AFFAIRS)
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

ACTION MEMO

FOR: SECRETARY OF THE NAVY

UNSECNAV _____

FROM: Juliet M. Beyler, Deputy Assistant Secretary of the Navy (Military Manpower and Personnel)

SUBJECT: Aviation Career Incentive Pay 12 Year Months of Operational Flying Gate Waiver ICO Captain Nicholas S. Stewart EDIPI: 1108397256/7509, USMC

- Mr. Secretary, (b) (5) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- In TAB C, you directed that Deputy Commandant for Manpower and Reserve Affairs review Captain Stewart's ACIP waiver request of November 4, 2014, in light of the remand ordered by the United States District Court for the District of Columbia, and this recommendation is provided in response.
- ACIP is a statutory monthly entitlement for those officers who meet certain operational flying duty requirements (TAB D).
 - Qualification for payment of continuous ACIP is determined by attaining minimum months of flying (MOF) requirements on specified flying service anniversaries (gates), typically at 12 and 18 years of service.
 - The ACIP waiver process exists so that aviation officers are not penalized for failing to meet flight gates due to fulfillment of Service critical non-flying billets which preclude attainment of the minimum MOF.
- SECNAVINST 7220.87 (TAB E) authorizes the Secretary of the Navy, for the needs of the Service, to waive ACIP flight gate requirements for aviators who are unable to meet flying gates due to reasons beyond their control.
- Per the court order, we are required to evaluate Captain Stewart's request as if the year is 2014; therefore the 2009 SECNAVINST 7220.87 applies.
- Captain Stewart is qualified for waiver approval. In general, the majority of 12-year gate waivers are requested by junior pilots who have great potential of returning to the regular performance of operational or proficiency flying duty.

SUBJECT: Aviation Career Incentive Pay (ACIP) 12 Year Months of Operational Flying (MOF) Gate Waiver ICO Captain Nicholas S. Stewart EDIPI: 1108397256/7509, USMC

- Captain Stewart has served under Duty in a Flying Status Not Involving Flying orders in the following critical billets: 11 months at Amphibious Warfare School, Quantico, VA and 24 months at Training and Education Command, Quantico, VA. Combined with time spent confined for a 2009 conviction that was subsequently deemed unconstitutional and 19 months of appellate leave, these tours contributed to a reduction of about 54 months of flying for Captain Stewart prior to failing his 12-Year Operational Flight Gate on May 21, 2014 (his 12th year of service) and subsequent loss of ACIP.
 - Captain Stewart is currently assigned to the Training and Education Command, Quantico, VA. The Marine Corps indicates he is eligible for rotational orders, detaching him from Quantico in early 2018 and assigning him to an AV-8B Harrier aviation training squadron for recertification and immediate employment in a significantly undermanned aviation community.
 - (b) (5) [REDACTED]
[REDACTED]
[REDACTED].
 - If approved, ACIP due is about \$27,000, based on \$650 per month from May 2014 to present.
- Previous waiver disapprovals are at TAB G.

RECOMMENDATION: (b) (5) [REDACTED]
[REDACTED]
[REDACTED]

COORDINATION: TAB H

ATTACHMENTS: As stated

2. Operations Code



G - INFORMATION
H - RETURN TO:
A - APPROPRIATE ACTION
B - GUIDANCE
C - SIGNATURE
D - COMMENT
E - RECOMMENDATION
F - CONCURRENCE
I - INITIAL
J - DISPOSITION
K - DECISION
L - RETENTION
O - OTHER

3. SUBJECT: Waiver of Aviation Career Incentive Pay Months of Flying Requirement ICO Capt Nicholas A. Stewart, USMC

4. DCN: 2017-MMP-0000000236

5. FILE PATH: (b) (5), (b) (6)

6. RTG	7. OPR CODE	8. ADDRESSEES	9. DATE		10. INITIALS		11. NATURE OF ACTION REQUIRED	ORIGINATORS INITIALS	DUE DATE (If any)
			IN	OUT	CONCUR	NON-CONCUR			
		ASSISTANT SECNAV(M&RA) ASN(M&RA)					ROUTINE:		
		PRINCIPAL DEPUTY PD							
7	G	EXECUTIVE ASSISTANT EA					URGENT:	JCH	ASAP
6	G	MILITARY ASSISTANT MA							
5	G	ADMIN OFFICER AO							
		DIRECTOR D&I DIR-D&I							
2	F	SENIOR ADVISOR MIL LAW SAML							
4	C	DEPUTY ASN (MM&P) DASN (MM&P)							
3	F	STAFF DIR (MM&P) SD (MM&P)							
1	F	DIRECTOR (MPA) DIR - MPA							
		DIRECTOR (SAHA) DIR - SAHA							
		DIRECTOR (MC&FP) DIR - MC&FP							
		DIRECTOR (R&T) DIR - R&T							
		DIRECTOR (SAO/DDR) DIR - SAO							
		DIRECTOR (WWP) DIR - WWP							
		DEPUTY ASN (CHR) DASN (CHR)							
		STAFF DIR (CHR) SD (CHR)							
		ADMIN ASSISTANT (CHR) AA (CHR)							
		OCHR							
		DEPUTY ASN (RA/TFI) DASN (RA/TFI)							
		STAFF DIR (TFI) SD (TFI)							
		STAFF DIR (RA) SD (RA)							
		ADMIN ASSISTANT (RA/TFI) AA (RA/TFI)							
		ASST GEN COUNSEL AGC							
		STAFF DIR (AGC) SD(AGC)							
		DIR, BD CORR NAV REC DIR-BCNR							
		DIR, SECNAV CORB DIR-CORB							
OTHER:									
		ASN(RD&A)							
		ASN(EI&E)							
		ASN(FM&C)							
		GENERAL COUNSEL							
		CMC							
		ACMC							
		CNO							
		VCNO							
		DC M&RA							
		COMMANDER, MARFORRES							
		CHIEF OF NAVAL PERSONNEL							
		CHIEF OF NAVY RESERVE							
		DIR MARINE CORPS STAFF							
		DIR NAVY STAFF							
		SURGEON GENERAL OF THE NAVY							
		OLA							

12. REMARKS

PURPOSE: SECNAV signature on TAB A is required to render a decision for ACIP months of flying waiver request.

BACKGROUND: See Action Memo.

DISCUSSION: (b) (5)

RECOMMENDATION: DASN(MM&P) sign Action Memo and forward package for SECNAV signature.

COORDINATION: TAB H

13. ACTION OFFICER: (Name, Grade, Office Code, Telephone number, file path)
CDR (b) (6) ODASN(MMP), (b) (6)